

REMARKS

By virtue of this amendment, claim 21-41 and 50-55 are pending in this application. Claims 1-20, 23, 24, and 42-49 have been canceled without disclaimer or prejudice. In the February 9, 2005 Office Action, the Examiner indicated that claims 24 and 27-29 contained allowable subject matter, but were rejected as being dependent on a rejected base claim. The applicants respectfully thank the Examiner for the indication of allowable subject matter.

In the February 9, 2005 Office Action, the Examiner rejected claims 21-23, 25, and 26 under 35 U.S.C. § 102(e) as being anticipated by United States Patent 6,565,303 (Riccitelli et al.). The applicants respectfully traverse this rejection. However, to expedite the allowance of the claims, the applicants have incorporated claims 23 and 24 into claim 21. Thus, pursuant to the Examiner's finding, it is respectfully submitted that claim 21 is now in condition for allowance. Claims 22, 25, and 26 depend from claim 21 and, at least by virtue of the dependency, are allowable.

Claim 27 has been redrafted into an independent format. Thus, as indicated by the Examiner, claims 27-29 are now in condition for allowance.

Allowance of claims 21, 22, 25-29 is respectfully requested.

The Examiner rejected claims 30-41 under 35 U.S.C. § 103(a) as being unpatentable over United States Patent 5,470,312 ("Terrizzi") in view of United States Patent 2,409,638 ("Lyon"). The applicant respectfully traverses the rejection. In particular, claim 30 recites a combination of elements including, for example, "at least one bonding material, wherein the bushing having an inner sidewall, the at least one bonding material residing on at least one portion of the inner sidewall at a location determined prior to threading, wherein the screw comprises a screw head and a shank, wherein the screw head having an outer sidewall, the at least one bonding material residing on at least one portion of the outer sidewall at a location determined prior to threading," which is not disclosed by either Terrizzi or Lyon either alone or in any reasonable combination thereof. At most, Terrizzi discloses threading a screw with an

agent integrated into the screw only. Thus, amended claim 30 is patentably distinct from Terrizzi because amended claim 30 provides a bonding agent on the screw and the bushing. Lyon does not cure the defect of Terrizzi. Lyon is silent regarding agents, and the Examiner simply uses Lyon to disclose that screws can be used with bushings. Moreover, neither reference discloses locating the agent in a location determined prior to threading. To the extent the Examiner believes Terrizzi discloses a predetermined location (which would be either the top or the entire shank), Terrizzi is still silent regarding locating an agent on the bushing prior to threading the screw. Thus, it is respectfully submitted that amended claim 30 is patentably distinct from Terrizzi and Lyon either alone or in any reasonable combination thereof. Withdrawal of the rejection and allowance of claim 30 is respectfully requested.

Claim 36 contains limitations similar to claim 30 and, at least by virtue of the similarities, is patentably distinct from the references. Withdrawal of the rejection and allowance of claim 36 is respectfully requested. Claims 31-35, 36-41, and 50-55 depend directly or indirectly from claims 30 and 31 and, at least by virtue of the dependency, are patentably distinct from the references of record. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Regarding claim 31 and 37, claims 31 and 37 are patentably distinct from the references for the additional reason that the bonding agent is recited to be “self-bonding,” in other words it bonds to itself. Terrizzi on the other hand, discloses an agent that bonds to any surface. For at least this additional reason claim 31 and 37 are patentably distinct from the references of record.

Regarding claim 34 and 40, claims 34 and 40 are patentably distinct from the references for the additional reason that claim 34, for example, recites a combination of elements including “the at least one self bonding material resides in a first notch on the inner sidewall and a second notch on the outer sidewall,” which is not disclosed by either reference. In particular, neither Terrizzi, which is silent regarding a bushing, nor Lyon, which is silent regarding an agent, disclose a first notch on an inner sidewall of the bushing.

Finally, it is respectfully submitted that a person of ordinary skill in the art would not look to either Terrizzi or Lyon to arrive at the present invention. In particular, the present invention relates to spinal or cortical implants, class 606. Terrizzi and Lyon conversely are related to fasteners, class 411. For at least this additional reason, the present invention is patentably distinct from the references.

For all the foregoing reasons, the applicant respectfully requests the Examiner reconsider and withdraw the rejections and allowance of the pending claims.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 08-2623. Should any extensions of time not accounted for be required, consider this a petition therefore and charge the associated fee to Deposit Account No. 08-2623.

Respectfully submitted,

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